

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARIO R. RODAS PORTILLO,

Plaintiff,

v.

CITY OF SHAFTER, et al.,

Defendants.

Case No. 1:23-cv-00920-JLT-BAM

**ORDER GRANTING PLAINTIFF'S
MOTION TO AMEND**

(Doc. 20)

**ORDER DIRECTING CLERK OF COURT TO
FILE PLAINTIFF'S LODGED SECOND
AMENDED COMPLAINT**

Plaintiff Mario R. Rodas Portillo, former county jail inmate, is proceeding pro se and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. On July 27, 2023, the Court screened Plaintiff's original complaint and found that it failed to comply with Federal Rule of Civil Procedure 8 and failed to state a cognizable claim for relief. The Court granted Plaintiff leave to file an amended complaint within thirty (30) days. (Doc. 8.) Plaintiff filed his first amended complaint on August 23, 2023. (Doc. 9.) The first amended complaint has not yet been screened.

On October 19, 2023, Plaintiff filed the instant motion for leave to file an amended complaint. (Doc. 20.) Plaintiff asserts that he "left out 'City of Shafter'" on his amended complaint," and he has submitted a copy of his amended complaint with the "error fixed." (*Id.*) Plaintiff's second amended complaint was lodged on the Court's docket concurrent with the instant motion. (Doc. 21.)

DISCUSSION

Under Rule 15(a) of the Federal Rules of Civil Procedure, a party may amend its pleading once as a matter of course at any time before a responsive pleading is served. Otherwise, a party may amend only by leave of the court or by written consent of the adverse party, and leave shall be freely given when justice so requires. Fed. R. Civ. P. 15(a). “Rule 15(a) is very liberal and leave to amend shall be freely given when justice so requires.” *AmerisourceBergen Corp. v. Dialysist West, Inc.*, 465 F.3d 946, 951 (9th Cir. 2006) (citation and quotation omitted). However, courts “need not grant leave to amend where the amendment: (1) prejudices the opposing party; (2) is sought in bad faith; (3) produces an undue delay in litigation; or (4) is futile.” *Id.*

In considering the relevant factors, the Court finds no evidence of prejudice, bad faith, undue delay in litigation, or futility. The Court previously granted Plaintiff leave to amend, Plaintiff's first amended complaint has not yet been screened, no defendants have been served or appeared in this action, and the Court will screen any amended complaint under the applicable standard. Accordingly, Plaintiff's motion to amend will be granted. The Clerk of the Court will be directed to file Plaintiff's lodged second amended complaint.

CONCLUSION AND ORDER

For the reasons stated, IT IS HEREBY ORDERED as follows:

1. Plaintiff's motion to amend (Doc. 20) is granted.
2. The Clerk of the Court is directed to file Plaintiff's lodged second amended complaint (Doc. 21.)
3. The Court will screen Plaintiff's second amended complaint in due course.

IT IS SO ORDERED.

Dated: September 17, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE